

### REMARKS

Initially, Applicant expresses appreciation to the Examiner for the courtesies extended in the recent telephonic discussion held with Applicant's representative. The claims presented herein are consistent with those discussions. Accordingly, entry of this amendment and reconsideration of the pending claims is respectfully requested.

The Office Action, mailed January 25, 2007, considered and rejected claims 1, 2, 5, 7, 8, 22-25, 32 and 33. Claims 1, 2, 5, 7, 8, 22-25, 32 and 33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward* (U.S. Patent No. 6,756,997), in view of *Marsh* (U.S. Patent No. 6,208,799), in further view of *Bertis* (U.S. Patent No. 6,564,005).<sup>1</sup>

By this paper, claims 1 and 22 have been amended, and no claims have been added or cancelled. Accordingly, following this paper, claims 1, 2, 5, 7, 8, 22-25, 32 and 33 are pending, of which claims 1 and 22 are the only independent claims at issue.

As reflected above, Applicant's claims are generally directed to managing conflicting recording schedules for broadcast recordings. In particular, the claims of the present invention allow a conflict in a broadcast schedule that exists at the time the user selects recording to persist such that the conflict can be automatically resolved, without a user needing to specifically resolve the conflict or re-program the scheduled recordings. As reflected in claim 1, for example, an exemplary method according to the present invention includes receiving user input from a particular user selecting a first program to be recorded. Thereafter, the same user selects a second program for recording. At the time the user input selecting the second program for recording is received, it is determined that a conflict exists between the first and second programs; nevertheless, the system still stores the conflicting information in a recording list indicating that the particular user has selected both the first and second programs for recording. The stored information thus persists a conflict that existed at the time the second program was selected. The system then selects the first program and programs the recording apparatus to schedule recording of the first program at the first broadcast time. Subsequent to such programming, the recording apparatus continues to store the information specifying that the user has selected conflicting programs, without requiring a user to resolve the conflict. In response to a subsequent event such as detecting that a new tuner has been added or that a start/stop time of

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

the first or second program has changed, the recording apparatus is automatically programmed to schedule recording of the second program.<sup>2</sup>

While *Ward*, *Marsh* and *Bersts* are each generally directed to recording programming despite the existence of conflicts, they fail, whether individually or in combination, to disclose or suggest Applicant's invention as claimed above. For example, among other things, the cited references fail to teach or disclose a method or a system in which at the time a particular user enters input selecting conflicting first and second programs, conflicting scheduling information is stored in the recording list, despite the existence of the conflict, as recited in combination with the other claim elements.

For instance *Ward* discloses an improved EPG in which windows are provided to provide information to the user. (Col. 10, ll. 50-60). Using the EPG windows, a user can use a record function to select to record a future-scheduled program and have it recorded in the Record List. (Col. 11, ll. 48-60). Multiple record commands may be provided by the user and, in some cases, such commands can conflict by having overlapping dates, times and durations. (Col. 12, ll. 37-49). However, when the record function of the EPG receives viewer instructions to record a particular program, it compares the newly received instruction to other instructions in the Record List. (Col. 12, ll. 41-45). When the received second program is determined to have an overlap with the already listed program, the EPG creates a message which describes the conflict and which is presented to the viewer. (Col. 12, ll. 42-49). The user is then required to revise the record instruction. Indeed, "the EPT will prevent entry of conflicting instructions into the Record List." (Col. 12, ll. 52-55). Thus, the second record command is stored in the Record List only after the conflict is resolved.<sup>3</sup>

Accordingly, *Ward* describes an EPG which identifies multiple programs and a Record List which identifies which of those program are scheduled to be recorded. In operation, when a user selects a program, a check is run against other programs in the Record List and, if a conflict is found, only one of the programs is stored in the Record List, while the other is omitted. In other words, *Ward* describes that when a user selects a program for recording that has a conflict existing at the time of the user input, the conflict must be eliminated before two record commands can each be recorded in the Record List. *Ward* fails, therefore, to disclose wherein two conflicting record

<sup>2</sup> Independent claim 22 recites a recording system and generally corresponds to the method of claim 1.

<sup>3</sup> In another embodiment, at the time the second command is received, *Ward* discloses that the EPG can detect a conflict between a "one occurrence" recording instruction and a "regularly recorded" recording instruction and either suggest to the viewer to select the "one occurrence" program, or automatically decide to override any conflicting "regularly record" instruction. (Col. 12, ll. 55-65). In either case, however, the instruction for the "regularly record" instruction is not recorded as only the "one occurrence" is stored in the Record List.

instructions, which result in a conflict at the time the user input is received, are each stored in a recording list, as recited in combination with the other claim elements. In fact, *Ward* discloses the opposite of Applicant's claims in that it expressly recites a system which prevents the storage of record instructions that conflict at the time the user input is received.

Applicant further notes that the Office Action states that *Ward* "discloses a system that allows for recording of shows through an EPG. The system stores both of the programs to be recorded and if a conflict is present will prompt the user to resolve the conflict; however, until the conflict is resolved both the program information is stored in the system." Applicant acknowledges that the program information for each program selected by the user is stored in the EPG. Nevertheless, the EPG stores information for each listed program, whether or not selected by the user. Applicant claims, however, that programs selected by the user further listed in a recording list at the time selected and even when a selected program conflicts with another program selected for recording. As noted above, *Ward*, in contrast, discloses that the "EPG will prevent entry of conflicting instructions into the Record List." (Col. 12, ll. 52-53). Inasmuch as the EPG in *Ward* prevents any entry of conflicting instructions into the record list, the record list cannot have conflicting instructions stored therein. Stated another way, based on the disclosure of *Ward*, it is clear that when a conflict exists at the time the user enters the request to record a program, the system will only record one of the two programs into the recording list, and "will prevent entry of conflicting instructions" therein.

Applicant respectfully submits that *Marsh* and *Berstis* fail to remedy this deficiency of *Ward*. For example, *Marsh* generally discloses a set-top VCR recording system which allows automatic adjustment of recording instructions upon the occurrence of changes to a program's recording schedule. In particular, a record request can be received for a particular program which has a particular date, time and duration. (Col. 7, ll. 18-20). When the request is received, and before it is stored in one of the systems record-timers, the request must be investigated for conflicts. (Col. 7, ll. 20-22). A conflict may exist because all of the record-timers have existing program record requests or because there is a day/time conflict. (Col. 7, ll. 24-39). In the case of a day/time conflict, an alert is sent to the user's TV screen where the user cancels one of the conflicting requests. (Col. 7, ll. 38-44). It is only when no conflict exists that the record request is stored in the record timer. (Col. 7, ll. 44-48).

Thus, *Marsh* also discloses a system in which, at the time the user requests a future program be recorded, the system checks for conflicts and has the conflict resolved, such that at the time of the

user-input, only non-conflicting requests are stored in the VCR.<sup>4</sup> Thus, in contrast to the present invention, in which conflicts existing at the time the user input is received are still stored in the system, and prior to resolution, *Marsh* discloses only that conflicts existing at the time of the user input are resolved before the request is stored, and that conflicting requests can be stored only when the conflict is created by later changing information such that the conflict did not exist at the time of the user request.

In a similar manner, *Berstis* discloses a system in which a multi-user video hard disk recorder is used to store programming content for a variety of users on the system and resolves conflicts before the record requests are stored. In particular, *Berstis* discloses a system in which a parent or other "master user" adds and manages multiple user accounts corresponding to different persons who will use a particular broadcast receiver. (Col. 6, ll. 54-65; Col. 7, ll. 11-22, 43-58). Users which then have set-up accounts can record programming according to the security measures put in place by the master user. (Col. 7, ll. 46-58).

To record a program, a user enters data regarding the particular program desired to be recorded. (Col. 8, ll. 19-25). Upon entering such information, the system checks the user's choices against the security restrictions. (Col. 8, ll. 30-35). If the user's selected program does not violate any restrictions, the system then also checks to ensure that the user's request does not conflict with another user's request for the same time period. In other words, "a user can not request that a television program be recorded for him at a particular time on a particular channel if another user has already requested that a different television program be recorded at the same time on a different channel." (Col. 8, ll. 35-42). Only if such a check reveals no conflicts is the program information saved in the user's program schedule. (Col. 8, ll. 49-53).<sup>5</sup> Thus, similar to the disclosures in *Ward* and *Marsh*, *Berstis* also discloses that record requests are initially checked for conflicts existing at the time the request is received and that each request is stored only if a conflict is resolved or does not exist.

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<sup>4</sup> Notably, *Marsh* does further disclose that the system can detect later changes to program broadcast times and determine and resolve conflicts between the new IPG data. (Col. 9, ll. 26-31; Col. 10, ll. 1-11, 19-34). Notably, however, such conflicts did not exist at the time the programming record requests were received from the user. Moreover, such conflicts are cured by a user-alert message or by automatically deleting a conflicting record request such that upon discovery of the conflict, the conflict is resolved and conflicting programming record requests are no longer stored.

<sup>5</sup> Notably, *Berstis* briefly notes that a priority 528 may be used to indicate the importance of recording a show. Significantly, however, *Berstis* discloses that such a priority is used to determine only that a priority is set to determine which show is recorded in the event that the selections of two different users conflict. (Col. 9, ll. 9-14). Indeed, as illustrated in Figure 10, the programming for the particular user does not conflict. Thus, conflicting programming requests are only prioritized in *Berstis* where they come from different users, rather than from the same particular user, as recited by Applicant in combination with the other claim elements.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney by telephone at (801) 533-9800.

Dated this 24<sup>th</sup> day of April, 2007.

Respectfully submitted,



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